In the High Court of Judicature at Madras

Dated: 04.01.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice N.PAUL VASANTHAKUMAR

Writ Appeal Nos.3892 to 3894 of 2004
and W.A.M.P.Nos.7369 to 7371 of 2004

Tamil Nadu Electricity Board
rep.by Executive Engineer (Urban)
Erode Electricity Distribution Circle,
948, E.V.N.Road,
Erode. ..Appellant in all the Appeals

..vs..

Easwara Gounder ..Respondent in W.A.3892/2004

1. Seeranga Gounder
2. S.R.Venkidusamy
3. Ramasamy Gounder ..Respondents in W.A.3893/2004

1. Muthu Gounder
2. S.K.Loganathan
3. Malaisamy
4. S.E.Kathirvel ..Respondents in W.A.3894/2004

Writ Appeals filed under Clause 15 of Letters Patent, against the common Order made in W.P.Nos.13786, 14285 and 14286 of 2003 dated 05.08.2003 respectively.

For Appellant : Mr.Girish for
Mr.J.Ravindran

For Respondents : Mr.T.Murugamanickam

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COMMON JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.,)

Aggrieved by the common order, dated 05.08.2003, of the learned Single Judge, made in W.P.No.13786 and 14283 to 14286 of 2003, Tamil Nadu Electricity Board through its Executive Engineer (Urban), Erode Electricity Distribution Circle, Erode, has filed the above appeals.

2. The respondents in these writ appeals are agriculturists. Initially, all of them secured electricity power connection to their respective wells and subsequently sought to be disconnected by Proceedings dated 01.04.2003 on the ground that the Public Works Department have not issued 'No Objection Certificate' since their wells were situated within the prohibited distance of the Bhavani river bed. The learned single Judge, after verifying the letter dated 07.10.1994 of the Chief Engineer (Irrigation), Chepauk, Chennai-5 addressed to Chief Engineer (Distribution) as well as letter dated 17.03.2003 from Executive Engineer, Public Works Department, Bhavani Sagar Dam Division to the Tamil Nadu Electricity Board, Erode Electricity Distribution Circle, and after finding that the writ petitioners' wells are situated 200 metres away from Bhavani river and that neither any odai nor any stream can stand in the way of the electricity department in considering petitioners' applications, accepted the plea of the petitioners and allowed their writ petitions.

3. We heard the learned counsel for the appellant as well as the respondents.

4. It is seen from the letter of the Chief Engineer dated 07.10.1994 while granting electricity power connection to wells situate on the side of the river, the Public works Department has to certify the actual distance. The above letter also shows that the distance criteria of 200 metres is to be followed for rivers only and not for jungle streams, odais or other field bothies.

5. It is also relevant to mention the letter of the Executive Engineer, Public Works Department, Bhavani Sagar Dam Division addressed to the Executive Engineer(Urban), Tamil Nadu Electricity Board, Erode Electricity Distribution Circle, Erode, which shows that the wells in question situated beyond the restricted distance of 200 metres from Bhavani river. No doubt, in the said letter, the Executive Engineer has mentioned that the excess of water canal of Appakkudal lake to Bhavani river stagnated at a distance of 16.5 metres from the three wells. In the same letter, the Officer has also observed that the water springs in the above wells due to river water. Because of the said reason, they refused to grant 'no objection certificate' for effecting electricity service connection.

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6. The learned Judge, basing reliance on the letter of the Chief Engineer (Irrigation), dated 07.10.1994, clarifying the position, namely, the distance criteria of 200 metres is applied only for rivers and not for jungle streams, odais or other field bothies, accepted the case of the petitioners. On going through those materials, we are in agreement with the said conclusion. In the absence of any specific rule / direction incorporating any restriction in respect of jungle streams, odais or other field bothies, the objection raised by the Public Works Department cannot be sustained. On the other hand, we are in agreement with the conclusion arrived at by the learned Judge. We do not find any merit in the appeals filed by the Electricity Board. Consequently, all the appeals fail and are accordingly dismissed. No costs. Connected miscellaneous petitions are closed.

7. Learned counsel appearing for the respondents submitted that necessary charges have already been paid. If the above statement of fact is correct, the appellant Electricity Board is directed to provide service connection, within a period of four weeks from the date of receipt of a copy of this Order.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

gl

To
The Executive Engineer (Urban)
Tamil Nadu Electricity Board,
Erode Electricity Distribution Circle,
948, E.V.N.Road, Erode.

+ 3 CCs to Mr.J.Murugamanickam, Advocate SR NO 907

+ 1 CC To Mr. J.Ravindran, Advocate SR NO. 1206

Common Judgment in Writ Appeals No.3892 to 3894 of 2004

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